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8           UNITED STATES DISTRICT COURT  
9           WESTERN DISTRICT OF WASHINGTON  
10           AT TACOMA  
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12           CRAIG D. HANSON,

13           Plaintiff,

14           v.

15           COUNTY OF KITSAP, WASHINGTON,

16           Defendants.

17           CASE NO. C13-5388RJB

18           ORDER DENYING DEFENDANT'S  
19           MOTION FOR REMITTITUR OR IN  
20           THE ALTERNATIVE A NEW TRIAL

21         This matter comes before the court on the above-referenced motion (Dkt. 291). The  
22         court is familiar with the records and files herein, the events of the trial, and documents filed in  
23         support of and in opposition to this motion. For the reasons stated herein, the motion should be  
24         denied.

25         This case has a long and torturous history that culminated in a jury finding in part for the  
26         plaintiff and in part for the defendant on the various claims submitted. Clearly, the jury  
27         understood the instructions of the court and the verdict form. They found for the plaintiff on  
28         claims relating to the failure to promote the plaintiff and found for the defendant on all other  
29         claims. It appears to the court that the verdict was supported by the evidence and that the verdict

1 was not excessive. It also appears to the court that the evidentiary rulings made during trial were  
2 consistent and appropriate, and that the verdict was not the result of undue passion or prejudice.

3 The court does not wish to add a lengthy opinion to this already voluminous record, but  
4 will make the following comments in response to issues raised by the defendant:

5 First, the court notes that there are no objections made as part of this motion to the  
6 instructions given. The instructions were complex but appeared to be followed by the jury.

7 Second, the evidence of damages was not entirely clear and, arguably, was confusing.  
8 Nevertheless, there is sufficient evidence in the record to support the amounts awarded, which  
9 was far less than the \$396,582.00 requested by plaintiff's counsel in closing argument.

10 Third, the court notes that, although there was a finding of willfulness, there has been no  
11 request to increase the judgment as a result of that finding.

12 Fourth, the defendant argues that much evidence was admitted that was in support of  
13 dismissed claims and that such evidence should not have been admitted. The evidence admitted  
14 was relevant to the claims that remained in the case. Defendant's counsel's argument did not  
15 insert those dismissed claims back into the case but only argued to the jury the entire background  
16 of what led to the issues that were presented to the jury. Instruction No. 10 clearly limited the  
17 jury's deliberations to those claims properly presented in this case. As mentioned above, the jury  
18 clearly understood the instructions and carefully determined the merits of each claim. There is  
19 no indication that their verdict was in any way based on dismissed claims.

20 Fifth, the defendant argues that the court should set aside the verdict because it was  
21 "contrary to the clear weight of the evidence." The verdicts were supported by the weight of the  
22 evidence. The defendants may have been surprised by the outcome and clearly counsel's view of  
23 the evidence is contrary to that of the jury, but the evidence was sufficient to carry the case

1 forward and was not contrary to the clear weight of the evidence. Long experience has indicated  
2 to this judge that it is a slippery slope for a judge to overrule a jury's view of the weight and  
3 effect of the evidence, if the evidence is sufficient to submit the case to the jury. The evidence  
4 was sufficient to raise jury questions here, and was not contrary to the cause of justice.

5 Sixth, the defense, in the conclusion to its reply (Dkt. 321) states, "Based upon this  
6 award, Kitsap is now facing a million dollars attorney fee request unwarranted negative  
7 publicity, and the undeserved publicity of discriminating against veterans." Such unhappy side  
8 effects from a jury verdict may be hard to bear, but they are not a basis for granting a new trial.  
9 Neither a remittitur or a new trial is justified here.

10 Lastly, the court has chosen to view this motion on its merits and has not dealt with the  
11 procedural issues raised in plaintiff's response (Dkt. 313). Those procedural issues are moot in  
12 light of the court's ruling on merits of the motion.

13 For the foregoing reasons, Defendant's Motion for a Remittitur or in the Alternative a  
14 New Trial (Dkt. 291) is hereby DENIED.

15 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
16 to any party appearing *pro se* at said party's last known address.

17 Dated this 21<sup>st</sup> day of May, 2015.

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20 ROBERT J. BRYAN  
21 United States District Judge  
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